

State Auth.

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OLC 74-1854  
19 August 1974

MEMORANDUM FOR THE RECORD

SUBJECT: Discussion with Chairman Wayne L. Hays (D., Ohio),  
Subcommittee on State Department Organization and  
Foreign Operations, House Foreign Affairs Committee,  
concerning the Role of the Ambassador Amendment,  
19 August 1974

Chairman Hays returned my call of Friday and eventually agreed to support our position in conference. At the beginning of our conversation he made a number of points against us in forceful language:

a. The ambassador should be boss in his country, he has been offered an ambassadorship previously and he would not take the position unless he knew all that was going on among those who purportedly worked for him. (I agreed, explaining that this is the situation under the country team concept--our people keep the ambassador fully informed of substantive intelligence and of operations so the ambassador can evaluate them in the light of his responsibilities and, if necessary, communicate any opposition to the Secretary of State. While there may have been some coordinating problems in the past in the 1950's, President Kennedy's letter of 1961, as reconfirmed in President Nixon's letter of 1969, clearly established the country team concept under the ambassador's leadership which we scrupulously adhere to.)

b. Bay of Pigs. The guys who mismanaged the Bay of Pigs operations didn't have the competence to handle an election for dog catcher, and there is no assurance that similar mismanagement won't occur in the future. (I alluded to the special circumstances of that operation and that if there were mistakes, things had changed significantly since then.)

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[REDACTED] (I said this was not so; we agreed it was pointless for me to try to convince him over the phone. He conceded that many think that he has more power than he possesses because of stories they read about him.)

d. Sentiment in the House. It would be virtually impossible on the House floor to insert remedial language in the legislation to protect the CIA--most members would see this as an ambassador/Agency struggle, no matter what was said.

*NB*  
*Q: Do we have this letter?*  
(I said this would not be necessary and referred him to Deputy Secretary Clements' letter to Foreign Affairs Chairman Thomas E. Morgan (D., Pa. pointing out the problems the legislation would cause for DOD, indicated that the legislation would create similar problems for all Federal agencies, and that the remedy would be to insert language to ensure that the role of the ambassador is "under the direction of the President" to assure necessary flexibility. I pointed out the President might want to use channels other than the ambassador for foreign policy initiatives and constitutionally ought to be permitted to do so, whereas the legislation would require us to inform the ambassador of any information we might have which the President had determined not to share with the ambassador. I pointed out the differences between apprising the ambassador of operations involving political risks, and the wisdom of permitting the ambassador to distance himself from intelligence operations and not sharing with the ambassador what for him would constitute minute Intelligence Sources and Methods information having no significant bearing on his job and which indeed may not even be related to the country of his assignment.)

e. Presidential knowledge. He said it was preposterous to assume that the President knows all that the Agency is doing and admitted that the President wouldn't have time for such detail. Interestingly enough, he drew an analogy involving Congress and the GAO, indicating that the latter is supposed to work for the Congress but is getting into areas that Congress never intended, causing problems; he noted that in order to set things straight he might be required to hold hearings on GAO's mission and

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f. Support for CIA. He asked what made me think he would want to help the Agency, suggesting that he had plenty of problems with the Agency himself. (I told him our sole interest was to close the loop that had started with Kempton Jenkins, State Department, who he agreed had talked to him, and we wanted merely to inform him on the ramifications of the legislation; we had found support for our general position with his Subcommittee membership, but did not want to assume that our dealings with Mr. Albert Westphal on the Committee staff were with the Chairman's blessing; that Mr. Cary had tried to contact the Chairman to discuss the problem but because of a possible breakdown in communications it was our understanding that we should deal with Mr. Westphal, and all we wanted to do was present the facts to Mr. Hays, knowing that he would come to his own judgment.)

2. After these initial fireworks had subsided it appeared that Chairman Hays had concluded that our position was sound and that he would support us in conference. When he reviews the material in Westphal's hands, I believe he will come to the same judgment if the matter comes up for a floor vote on a specific amendment to the State authorization bill, and our contacts with Representatives Peter H. B. Frelinghuysen (R., N. J.), Vernon W. Thomson (R., Wis.), and Dante B. Fascell (D., Fla.) should also be helpful in this connection.

3. Recommendation: It is recommended that we take some positive action to correct some of Representative Hays' misconceptions and misunderstandings concerning Agency activities; possibly the best means is through Chairman Lucien N. Nedzi (D., Mich.), Special Subcommittee on Intelligence, House Armed Services Committee.

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Deputy Legislative Counsel

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